



PLANNING COMMISSION SYNOPSIS

Wednesday, September 26, 2007

6:30 p.m. Regular Meeting

Council Chambers

First Floor, City Hall Wing

200 East Santa Clara Street
San José, California

Ash Kalra, Chair

Randi Kinman, Vice-Chair

Xavier Campos Lisa Jensen
Matt Kamkar Christopher Platten
Jim Zito

Joseph Horwedel, Director
Planning, Building and Code Enforcement

NOTE

To listen to the audio recording of the planning Commission, please go to the Planning website at http://sanjose.granicus.com/ViewPublisher.php?view_id=17

NOTE

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, we ask that you call (408) 535-7800 (VOICE) or (408) 998-5299 (TTY) at least two business days before the meeting. If you requested such an accommodation please identify yourself to the technician seated at the staff table. If you did not call in advance and do now need assistance, please see the technician.

NOTICE TO THE PUBLIC

Good evening, my name is **Ash Kalra** and I am the Chair of the Planning Commission. On behalf of the entire Planning Commission, I would like to welcome you to the Planning Commission Public Hearing of **Wednesday, September 26, 2007**. Please remember to turn off your cell phones and pagers. Parking ticket validation machines for the garage under City Hall are located at the rear of the Chambers. If you want to address the Commission, **fill out a speaker card (located on the table by the door, on the parking validation table at the back, and at the bottom of the stairs near the Audio-Visual Technician. Deposit the completed card in the basket near the Planning Technician. Please include the agenda item number (not the file number) for reference. Example: 4a, not PD06-023.**

The procedure for this hearing is as follows:

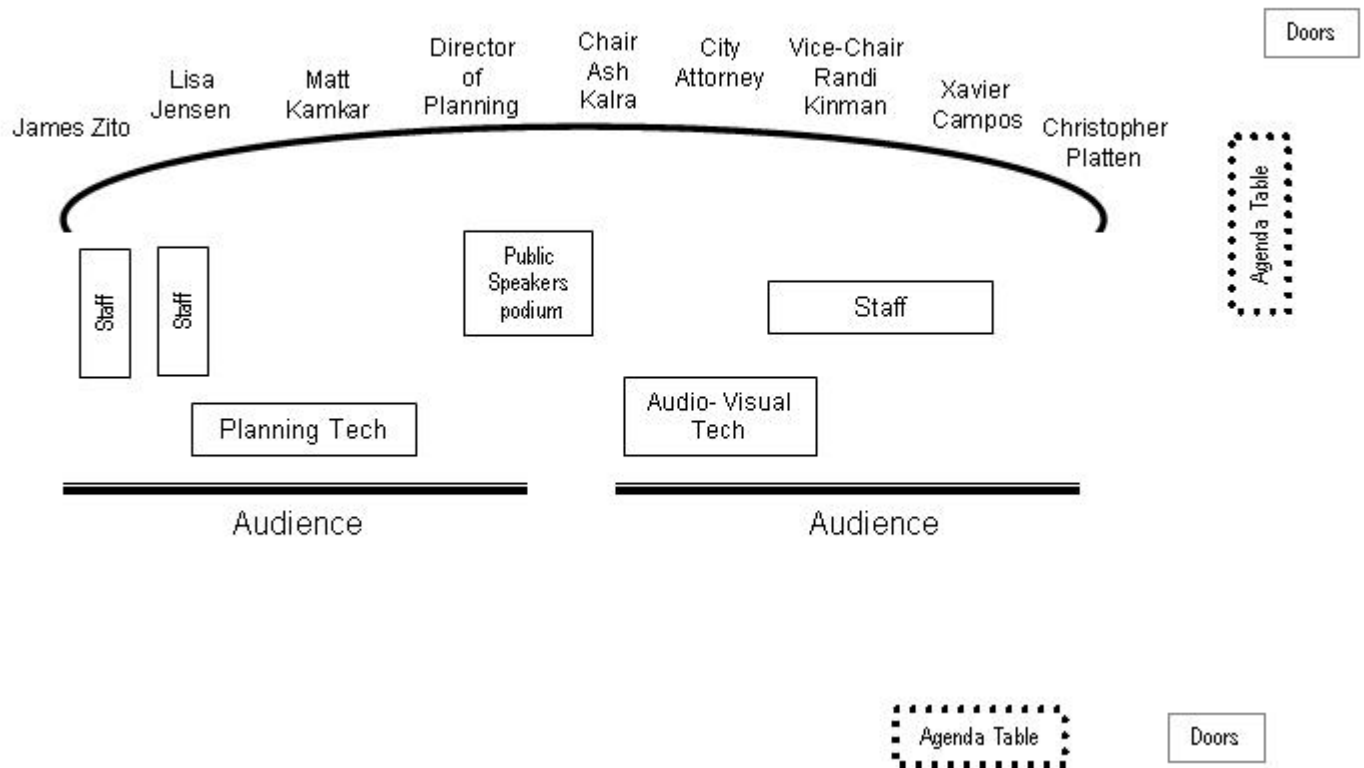
- After the staff report, applicants and appellants may make a 5-minute presentation.
- The chair will call out names on the submitted speaker cards in the order received.
- As your name is called, line up in front of the microphone at the front of the Chamber. Each speaker will have two minutes.
- After the public testimony, the applicant and appellant may make closing remarks for an additional five minutes.
- Planning Commissioners may ask questions of the speakers. These questions will not reduce the speaker's time allowance.
- The public hearing will then be closed and the Planning Commission will take action on the item. The Planning Commission may request staff to respond to the public testimony, ask staff questions, and discuss the item.

If you challenge these land use decisions in court, you may be limited to raising only those issues you or someone else raised at this public hearing or in written correspondence delivered to the City at, or prior to, the public hearing.

The Planning Commission's action on rezoning, prezonings, General Plan Amendments and Code Amendments is advisory only to the City Council. The City Council will hold public hearings on these items. Section 20.120.400 of the Municipal Code provides the procedures for legal protests to the City Council on rezonings and prezonings. The Planning Commission's action on Conditional Use Permit's is appealable to the City Council in accordance with Section 20.100.220 of the Municipal Code. Agendas and a binder of all staff reports have been placed on the table near the door for your convenience.

Note: If you have any agenda questions, please contact Carmen Stanley at carmen.stanley@sanjoseca.gov

The Planning Commission is a seven member body, appointed by the City Council, which makes recommendations to the City Council regarding the adoption, amendment, or repeal of general or specific plans, and regulation of the future physical land use development, redevelopment, rehabilitation or renewal of the City, including its Capital Improvement Programs. The recommendations to the Council regarding land use development regulations include, but are not limited to, zoning and subdivision recommendations. The Commission may make the ultimate decision on Conditional Use Permits, and acts as an appellate body for those persons dissatisfied with the Planning Director's decisions on land use and development matters. The Commission certifies the adequacy of Environmental Impact Reports.



The San José Planning Commission generally meets every 2nd and 4th Wednesday at 6:30 p.m., unless otherwise noted. Agendas and Staff Reports for Planning Commission items may be viewed on the Internet at www.sanjoseca.gov/planning/hearings/planning_com.asp.

Audio for the Planning Commission hearings are recorded and broadcast live. To listen to live audio broadcast or to listen to past hearing recordings go to the Internet website: http://sanjose.granicus.com/ViewPublisher.php?view_id=17#planningCommission.

If you have any questions, please direct them to the Planning staff at (408) 535-7800. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

AGENDA

ORDER OF BUSINESS

1. **ROLL CALL**

2. **DEFERRALS**

Any item scheduled for hearing this evening for which deferral is being requested will be taken out of order to be heard first on the matter of deferral. A list of staff-recommended deferrals is available on the Press Table.

Staff will provide an update on the items for which deferral is being requested. If you want to change any of the deferral dates recommended, or speak to the question of deferring these or any other items, you should say so at this time.

- a. Consideration of Planning Commission Agenda management and length of public hearing concerns and determination on whether to proceed with remaining agenda items past 11:00 p.m., continue this hearing to a later date certain, or defer remaining items to the next regularly scheduled Planning Commission meeting date. To be heard by the Planning Commission no later than 11:00 p.m.
- b. **CP06-070**. Conditional Use Permit to allow off-sale of alcohol in a previously approved commercial building on a 1.65 gross acres site in the CP Pedestrian Commercial Zoning District, located on the southeast corner of South De Anza Boulevard and Bollinger Road (966 S DE ANZA BLVD) (Yamanaka George J And Kuniko, Owner; Hunter/Storm, LLC Deke Hunter, Developer). Council District: 1. SNI: None. CEQA: Exempt.

DEFERRED TO 10-10-07 (7-0-0)

- c. The projects being considered are located on the west end of Harris Avenue, approximately 400 feet west of Pauline Drive (1991 HARRIS AV), in the R-M Multiple Residence Zoning District (SANJIDEH MERDAD AND GENEVA, Owner). Council District 9. SNI: None. CEQA: Exempt.
 - 1) **CP07-028**. Conditional Use Permit to allow conversion of an existing apartment building to a 16 units residential condominium complex on a 1.12 gross acres site.
 - 2) **T07-024**. Tentative Map to combine 3 parcels into 1 lot for 16 residential condominium units conversion on a 1.12 gross acres site.

DEFERRED TO 10-10-07 (7-0-0)

- d. **CP06-060**. Conditional Use Permit to allow expansion of the previously approved permit conditions regarding business operation after midnight, construction of an interior wall to separate the restaurant from the nightclub to allow patrons under the age of 21 years, and to permit an off-site parking arrangement where patrons would utilize the VTA parking lot at 3390 Monterey Highway. The proposal is for the existing Fiesta Restaurant & Nightclub on a 2.16 gross acres site in the CN Neighborhood Commercial Zoning District, located on the northeast corner Monterey Road and Rancho Drive (3844 MONTEREY RD)(Noghrey Jamshid and Martha E, Owner). Council District 7. SNI: None. CEQA: Exempt. Deferred from 9-12-07

DEFERRED TO 10-10-07 (7-0-0)

3. CONSENT CALENDAR

NOTICE TO THE PUBLIC

The consent calendar items are considered to be routine and will be adopted by one motion. There will be no separate discussion of these items unless a request is made by a member of the Planning Commission, staff, or the public to have an item removed from the consent calendar and considered separately.

Staff will provide an update on the consent calendar. If you wish to speak on one of these items individually, please come to the podium at this time.

- a. **PDC06-005.** Planned Development Rezoning from R-M Residential District to A(PD) Residential District to demolish the existing residential project and to allow 45 attached single-family units (four stories over a podium garage) on a 0.90 gross acre site, located on the north side of Bark Lane approximately 150 feet west of Weyburn Lane (7201 BARK LN) (Lee Lily Fu And Jason C, Owner). Council District 1. SNI: None. CEQA: Mitigated Negative Declaration.

RECOMMENDED APPROVAL (7-0-0)

Pulled from consent by Commissioner Kamkar with questions about schools, height and parking. Commissioner Jensen had questions about Police and Fire comments and green building standards. The applicant clarified school districts for project and estimated 6-7 student increase for schools in district, that all parking for project is being provided in underground garage and that there is on-street parking with spaces at standard width. The applicant noted number of stories includes parking level but project would not shade next property because use to north is a carport for apartments. Applicant complimented staff work to help make project a good building. Commissioner Kamkar asked staff if any correspondence had been received from the school districts and staff indicated that no comment received but project would pay fees. Staff noted that green principle would be incorporated at PD permit stage and clarified open space areas included in calculations.

- b. **CP07-029.** Conditional Use Permit to allow an off-site parking arrangement on a stretch of abandoned U.P.P.R. right-of-way on a 0.54-acre site (COMCAST) in the HI Heavy Industrial Zoning District, located on the eastside of S. 10th Street, approximately 1,100 feet southwesterly of Needles Drive (DiNapoli DiNapoli & Mulcahy, Owner(s)). Council District 7. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

- c. **CP07-060.** Conditional Use Permit to allow continued use of existing wireless communication antennas on a 1.7 gross acres site. (GOODWILL) in the CP Pedestrian Commercial Zoning District, located on the northeast corner of Foxworthy Avenue and Almaden Expressway (3058 ALMADEN EX) (Goodwill Industries Scc Inc, Owner; Verizon Wireless Mike Groff, Developer). Council District 9. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

- d. **CP07-026.** Conditional Use Permit to allow conversion of an existing hotel to a senior assisted living facility located on a 0.83 gross acre site in the CP Pedestrian Commercial Zoning District, located on South Bascom Avenue approximately 100 feet north of Shelley Avenue (3341 S BASCOM AV)(Bascom Hotel Llc, Owner). Council District 9. SNI: None. CEQA: Exempt

DEFERRED TO 10-10-07 (7-0-0)

The following items are considered individually.

4. **PUBLIC HEARINGS**

NOTICE TO THE PUBLIC

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. The projects being considered are located at/on south side of Rose Ave, approximately 120 feet easterly of Nancy Lane (2925 FLORENCE AV), in the R-M Multiple Residence Zoning District (CAPITAL TOWNE HOUSE INC, Owner; CAPITAL TOWNE HOUSE, MR HERBERT SALAS, Developer). Council District: 5. SNI: East Valley/680 Communities. CEQA: Exempt.. Continued from 08/22/07.
- 1) **CP07-016**. Conditional Use Permit to allow conversion of an existing apartment building to 82-unit condominium complex on a 3.45 gross acre site.
 - 2) **T07-009**. Tentative Condominium Map Permit to reconfigure one parcel into 8 lots for 82-unit residential condominium purposes on a 3.45 gross acre site.

APPROVED (7-0-0)

Staff provided update on presentation of project to SNI NAC. Applicant commended staff for good work. Commissioner Kinman asked for clarification on the resulting “equal condition” of units changing ownership type. One area resident spoke regarding condition of exterior of building and concerns for safety of children playing. Commissioner Zito asked speaker how many children lived on-site and speaker responded as sixty children. He further explained available 15 square foot area could be used for play area. Commissioner Kamkar asked why homeowner’s association couldn’t build playground. Applicant, Sal Caruso, responded about replacement of roof shingles with fire resistant and explained play area removed 15 years ago, and there is now a park within a block of site for children, and explained “play area” inadequate by current standards. Applicant explained area only 15 foot square and not big enough for play equipment and that area is used as a corporate yard. Applicant explained future homeowner’s association. In response to Commissioner Jensen, applicant explained process for working with State Department of Real Estate to create fund for newly-established homeowner’s association based on assessments, plus CC&R’s, and experience this group has a part of corporation, and also explained small loan to provide funds for upgrade of building.

In response to Commissioner Kinman, the applicant explained that group of homeowner’s had approved loan amounts. The project manager explained that many other stock cooperative situations can convert to condominiums without a CUP or tentative map.

Commissioner Campos asked if “holding area” would be screened and applicant indicated it would be.

Commissioner Zito asked if there was an income restriction on units, or if there would be in the future. Applicant answered no restriction, but stated these are not luxury units, and asked Commission to approve ownership of individual units.

Moved for approval by Commissioner Zito. Commissioner Jensen thanked staff for SNI NAC referral, and asked for definition of “unreasonable economic hardship” and staff responded together with City Attorney’s Office, that they felt finding could be made.

Commissioner Jensen asked for clarification on water shut-off valves and whether owner is at risk for water shut-offs. Staff explained water bills paid by association. In response to questions, staff explained building met 1963 criteria but today’s standards would be more stringent.

- b. An ordinance of the City of San José further extending the Secondary Unit Pilot Program until April 30, 2008, or until 100 secondary units have been considered under the Pilot Program, whichever occurs first; to revise the Pilot Program development parameters; and to further suspend the park in lieu requirements of Chapter 14.25 of Title 14 of the San José Municipal Code during the term of the Pilot Program. Exempt (File No. PP07-184).

APPROVED (7-0-0)

Staff gave a brief update on secondary unit program and results of the survey of residents near constructed secondary units. Commissioner Kalra asked when Parks Department fee proposal would be brought forward – and Parks staff responded with next week, and likely would be linked to the SRO-unit park fee. Staff responded to other clarification questions from Commissioner Zito. Commissioner Zito moved approval.

Commissioner Kinman asked for clarification on issue of attaching a detached unit to a detached garage and staff responded no more likely to become illegal units than other garages. Staff further responded that the Secondary Unit Pilot Program is a way to bring some existing illegal secondary units into compliance, and the compliance for other existing illegal units would be targeted for after the permanent ordinance is in place. In response to Commissioner Kamkar’s question about school impacts, City Attorney indicated school district would respond, and city is preempted from adding requirements for schools. Staff responded to Commissioner Kamkar that one additional parking space is required on site, and no additional trip fee discussed at this time.

In response to Commissioner Jensen, staff confirmed data in table.

In response to Commissioner Campos regarding ability to use any lawn area for parking, staff responded that only up to 50% of front setback can be hardscape, and stated staff tries to work with applicants to place parking to side and rear, if possible. Staff explained that staff currently provides a free preliminary review for these applications.

Commissioner Kalra commented he was pleased that staff was looking at reduced rate for parks fees for secondary units.

- c. **H07-026.** APPEAL of the Planning Director’s decision to APPROVE a Site Development Permit to relocate an existing house on-site, add approximately 1,559 square feet and convert to a duplex, & demolish the existing detached garage and replace with new detached garage on a 0.17 gross acre site, in the R-M Multiple Residence Zoning District, located at 1405 McKendrie Street. (Filippin Family Trust, Owner.) Council District: 6. SNI: None. CEQA: Exempt.

CONTINUED TO 11-14-07 (7-0-0)

Applicant spoke in support of proposal for second unit. Speakers from neighborhood explained that parking is an issue in area, and were concerned that adding on to the historic house will seem odd on the block, and that the windows and doors are critical elements and applicant is proposing to remove window area for a closet. Another speaker indicated no other multi-family dwellings on the street and that this property has long history of code

compliance issues and their other properties. Other speakers commented traffic safety issues exist on narrow street, so no further units should be approved, and too many units in area already, and that a second structure should not be “shoe-horned” in to double number of bedrooms to six on site. Another speaker expressed concern that future construction at this corner location will create a particular safety hazard.

Applicant responded that he has lived since high school in area, is an architect, and that he cannot solve existing parking traffic problems in area. He explained 4 parking spaces would be on-site and that he kept existing curb-cut for new driveway. Applicant explained some improvements to standard that will be required. In response to Commissioner Zito, applicant stated owned lot 10 years. In response to Commissioner Kalra about whether consideration given that wouldn't move older house, the applicant explained options considered and the need for open space. In response to Commissioner Jensen, applicant commented some square footage will be added to existing house, and that a soils engineer will be required to compact soil in basement as new foundation will not include a basement.

Commissioner Zito asked about code violations still open on site. Staff explained that at the site inspections, no code violations noted, and upgrade of historic property to duplex should result in upgrade of property. Staff further commented on items from public testimony that most concerns addressed in staff report. Staff explained recommended additional condition to work with applicant to restore door to historical situation. Also in response to Commissioner Jensen regarding addition to house, staff noted only new to rear which still would meet the Secretary of Interior Standards. Commissioner Jensen expressed concern about use of vinyl windows, even in addition, and stated concern that addition wouldn't match existing house. Commissioner Jensen asked if any maximum on impervious surface in Code and staff explained determination done through development permit. Commissioner Jensen expressed that demolition by neglect is problem, and staff commented staff acknowledges maintenance issue on property but is looking for tool to remedy situation. Staff commented that staff could respond to any direction from Commission, and explained Secretary of Interior Standards and that addition can be compatible without being identical. Commissioner Jensen stated project should remove vinyl windows and recommended delay for revisions. Staff suggested a 7 week deferral.

Commissioner Kinman asked that staff address Muni code violations; use of performance bonds, and if renoticed, asked if this possibly be dealt with as secondary unit. Staff clarified that this is R-2 lot and wouldn't qualify for that program.

- d. **CP07-036.** Conditional Use Permit to allow the replacement of the existing open bleacher seating at the north side of an existing athletic field with the construction of grandstand seating with weight and locker rooms beneath on a private high school campus (Archbishop Mitty High School) in the R-1-8 Single-Family Residence Zoning District, located on the southeast corner of Mitty Way and Doyle Road (5000 Mitty Way) (Roman Catholic Welfare Corp Of San José, Owner). Council District 1. SNI: None. CEQA: Exempt.

APPROVED (7-0-0)

Staff provided update on school ability to use VTA lot for additional parking, and attachments for public works memo and stormwater control plan. Staff explained Mitty dedicated person to assist with staff outreach. Applicant made a brief presentation.

Principal for Mitty High School explained neighborhood issues were future plan, parking in neighborhood, noise from events and height of facility. He explained master plan, expanded ride share program students who collect trash from area, the possibility to park on VTA lot which will eliminate parking south of Doyle Road, and that consultant did another noise

study (only one night game). He continued that the school had lowered height of grandstand and removed press box.

Commissioner Campos asked where press box would go, and Principal explained interim table one time a year as a compromise and Principal explained desire to have field lights and that varsity only plays one game a year.

Commissioner Jensen congratulated Principal on women's athletic program and stated Mitty wants to be good neighbor and asked if school would work on neighborhood parking permit program. Principal explained future meeting would be scheduled in November to explore neighborhood parking program. Principal explained already limited street parking. Until campus parking better addressed permit parking would be difficult. He explained Doyle Road issue, which if vacated, could provide more parking. Principal explained use of field for meets in afternoons, no other night events, and stated lot not rented out but other community groups use field free sometimes during the year.

Commissioner Kinman asked how students are prohibited from parking in front of houses and Principal explained fines auto sticker program. He explained 50+ spaces should be available at VTA lot.

One neighborhood resident expressed concern about nature of new generation athletic facilities with noise and sight lines and parking and possible future lighting of field. Another explained she believed staff had not been fully diligent and second community meeting only held after neighborhood asked for it. Another applicant expressed that noise would still be an issue, and that new parking lot on VTA site would not be permanent.

Principal acknowledged the difficulty of having a school in a neighborhood, and explained new generation of facility to better use space, and 35 height could be built 20 feet from property line and bleachers would be 250 feet beyond residential properties and explained noise study, and that no change is proposed to PA system.

In response to Commissioner Zito, applicant stated no changes to loud speakers, are not adding lights, and that seats would be reduced in bleachers by 100 seats and weight room use would be after school, so new parking demand.

In response to Commissioner Zito, Principal explained that sound acoustic engineer did not see issue for 14 foot height increase. He further stated VTA is allowing temporary use of lot but purchase could take 3 years, but still working out terms. Principal explained that no change to bleachers if not for need for new locker rooms.

Staff explained the original enrollment cap from the year 2000 Site Development Permit and that enrollment is noted on plans. In response to Commissioner Zito, staff confirmed that new bleachers will not result in increase in students or staff. Commissioner Zito recommended neighborhood continue to work with Mitty in the future to continue to address parking concerns. Commissioner Jensen asked staff to work on permit parking in neighborhood so no opportunity for students to park. Commissioner Campos stated Mitty is a neighborhood member also, and that parking not really an issue related to application as no increase in students or traffic. Commissioner Kinman stated that without press box, not likely to expand, and encouraged Mitty to include neighborhood on future planning committee. Commissioner Kalra commended Mitty on future plans for bleachers, for alterations to reduce height, and asked Mitty to continue to engage neighborhood.

- e. **C07-027.** Conventional Rezoning from R-1-8 Single-Family Residence Zoning District to R-M Multiple Residence District on a 0.26 gross acre site, located on the south side of Blossom Hill Road, approximately 70 feet westerly of Hoffman Court (1250 BLOSSOM HILL RD) (Joseph Guerra, Owner; Rockwell Homes, Inc. Joshua Lobue, Developer). Council District 10. SNI: Hoffman/Via Monte. CEQA: Exempt. Deferred from 9/12/07.

RECOMMENDED APPROVAL (7-0-0)

Staff commented on site signage now posted on site, and that additional community meeting was held.

- f. **PDC07-002.** Planned Development Rezoning from the HI Heavy Industrial Zoning District to the A(PD) Planned Development Zoning District to allow up to 37 residential multiple dwelling units on a 0.713 gross acre site, located at/on the east side of South 3rd Street approximately 500 feet north of Keyes Street (1010 S 3RD ST) (Fernando C. Guevarra and Maria Guevarra, Owner; Long Nguyen, Developer). Council District: 3. SNI: Spartan/Keyes. CEQA: Draft Mitigated Negative Declaration.

RECOMMENDED APPROVAL (7-0-0)

Staff explained meeting with SNI NAC already scheduled for discussion of PD permit which will allow further design issues to be reviewed with neighborhood. One Spartan Keyes SNI area resident spoke in support of project but stated neighborhood should take a more active role for permit parking in impacted areas, and stated that VTA should provide more services, DOT should look more at hot spots, and more police should patrol area. Another speaker thanked applicants who worked with community and stated he looks forward to working with developer on design.

Commissioner Jensen clarified that permit parking is possibility for neighborhood to work to achieve, but Planning Commission can't direct it.

In response to Commissioner Kinman, staff explained need for wall to mitigate noise from truck parking at this point but stated development standards allow for removal if future situation changes and public park developed. Commissioner Kinman asked how close to development is the park. Dave Mitchell explained the share of required funding the fees from this proposal would generate and stated no timeframe yet, but other reserve funds available.

Commissioner Campos commented developer did good job with early dialogue with community and stated building facades could use more detail. Commissioner Jensen expressed appreciation to Spartan-Keyes neighborhood for engagement with applicant and stated "building green" checklist should be included at building stage, photovoltaics on roof, and should use of recyclable materials etcetera, and other best practices and would project be required to use recycled water. Commissioner Kalra recommended staff work to mitigate environmental issues and work on design of project.

- g. All proposals are located in the North San Jose Policy area, and include parcels along both sides of Vista Montana west of North First Street and along the east side of North First Street, south of Headquarters Drive: Council District: 4. SNI: None. CEQA: Addendum to the Final Environmental Impact Report for the North San José Area Development Policies Update.
- 1) **PDC07-054.** Planned Development Rezoning from the (IP) Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 444 attached residential units on a 12.1 gross acre site, located at on the corner of Vista Montana and the west side of North First Street (APNs: 097-52-013 and 097-53-015) (Novellus Systems, Inc., Owner); and.

- 2) **PDC07-055**. Planned Development Rezoning from the IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District to allow up to 554 attached residential units and a 1-acre park on a 8.7 gross acre site, located on the northwesterly corner of Vista Montana and West Tasman Drive (APNs: 097-52-028 and 097-52-029) (Sobrato Development Co. and Novellus Systems Inc., Owners); and.
- 3) **H07-035**. Master Site Development Permit for development of up to new additional 870,000 square feet of Industrial Park uses, including transfer of 290,000 square feet of floor area credits, on a 27 gross acre site, located at the southeast corner of North First Street and Headquarters Drive, (APNs 097-79-001, 097-79-002, 097-79-003, 097-79-009, 097-79-011, and 097-79-012) (Novellus Systems Inc., Owner); and.
- 4) **DA-Novellus**. Development Agreement with Novellus for the area within the boundaries of applications PDC07-054, PDC07-055, and H07-035, to vest for 20 years Site Development Permit, H07-035, for development of up to 870,000 square feet of Industrial Park uses, including transfer of 290,000 square feet of floor area credits; to vest for 5 years Planned Development Zonings, PDC07-054 and PDC07-055, for development of up to 998 residential units and 6 acres of parkland; and to provide maintenance, for the duration of the Development Agreement, of 5 acres of the 6 acres of parkland to be provided.

RECOMMENDED APPROVAL (7-0-0)

Staff provided update on NSJ policy task force and explained work program and resulting priorities. Staff reviewed projects on file or in preliminary review currently, and explained positive change as result of policy being in place in appropriate timeframe. Staff explained memoranda from Council on future development in area, especially related to green buildings and retail in area.

Staff explained nature of development agreement as a package deal of 3 permit applications together for Novellus, so that City can consider benefit of entire proposal. Staff explained extra benefit from additional parkland provided and funding for park maintenance, and other developer's request for longer timeframe for entitlements.

Staff highlighted minor changes in draft development standards and briefly explained the three applications brought forward together, and explained public outreach provided for application and neighborhood concerns raised.

Commissioner Kalra thanked staff for presentation including context, and stated Planning Commission hopefully had a role in enhancing public participation. Staff clarified that without a PD zoning, an existing zoning district would provide height standards. Staff also explained process to identify the "transfer of development" from existing site to the receiving site, and explained Novellus existing building is to transfer to other Novellus industrial site, and therefore doesn't subsidize residential. Commissioner Campos asked for information on future tenants in neighboring project to build commercial.

Eric Schoennauer represented the applicants, both Novellus and Equity Partners, and highlighted benefits to community, and neighborhood planning done, and explained dialogue with school districts to date. He presented some conceptual elevations for the residential development.

In response to Commissioner Zito on 5-acre and 1-acre parks, applicant explained 5-acre area park for area, and would be for other uses. Five-acre site set by property limits. Applicant clarified distance to light rail station as 1000 feet at closest point, and bus stop locations. Commissioner Jensen asked that projects look toward green building goals and applicant stated taking lead from City Council over more standardized approach.

Commissioner Jensen thanked applicant for recycled water approach and planting proposed.

Commissioner Kamkar asked for further information on schools, traffic and parking. Applicant explained NSJ policy which requires fee but stated operational analysis was done and identified new signal at Vista Montana/Renaissance to be funded by project. Applicant explained that projects meet on-site parking requirements and adding on-street curbside parking and confirmed some tandem parking in garages. Applicant indicated possible school site options and noted school district favors site near 5-acre park. Applicant further explained capacity at elementary and middle schools and stated Santa Clara Unified not wanting to build high school in NSJ area. One truck driver commented traffic increases are significant on SR 237. Commissioner Kalra noted comments by truck driver likely shared by many others. Staff explained that in 2005, the EIR for NSJ policy update was prepared to analyze full buildout and to identify transportation improvements and that traffic impact fee will be charged to fund improvements. Staff commented that likely \$500,000 to \$1 million would come from this project as well as operational improvements. Staffs also explained the 30-year analysis for area with and without project and commented commutes are shorter with project, and funding mechanism available with policy.

Commissioner Kinman stated developers should provide bike storage on-site. Director Horwedel responded that staff defers to developer on parking levels and planning willing to trade auto parking for bike parking. Commissioner Kinman stated more bicycle parking needed elsewhere. Commissioner Jensen thanked staff for overview report and commended Rodrigo Orduna for his efforts on the NSJ projects, and asked for clarification on waiver of parkland credits for on-site improvements. Staff clarified. Commissioner Jensen highlighted that since most of projects approved are at lower than 90 du/ac, staff should monitor closely. City Attorney clarified nature of development agreements, and aspects of “vesting” permits related to such a proposal, and explained items to be vested as key laws in effect now. Commissioner Jensen again stressed green technologies. Director Horwedel described history of development agreements and nature of citywide rules that could apply. He also explained rationale for staff recommendation. Commissioner Zito asked for further clarification on square footage transfer for Novellus and resulting FAR and staff clarified 1.1 FAR total. Staff clarified no FAR cap in policy area, but that FAR higher than .40 should be better development. Staff stated likely structured parking and 6-8 stories and clarified nature of trips.

In response to Commissioner Zito, City Attorney responded that parks were to be able to come on line sooner with development agreement when residential units are occupied. Dave Mitchell explained possible ways to complete 5-acre park. Director Horwedel stated park development will trail behind residential development but 6 acres of land will be provided and maintenance of park, with this development package.

Commissioner Kamkar suggested alternatives to “at grade” congested intersections and stated caution should be used to keep housing and transportation in balance. Director Horwedel commented NSJ policy identifies improvements already programmed in SJ, SC and Milpitas, and should review with Commission, but no grade-separated intersections in plan.

Commissioner Platten expressed that proposals are balanced package and after clarification by City Attorney, moved recommendation for approval of all 4 items as balanced implementation of City Council policy. Commissioner Zito asked for clarifications about parks specifics regarding turnkey. Director Horwedel explained if city money available could have applicant do turnkey park.

City Attorney explained Planning Commission role in review of terms of development agreement and potential for additional Commissioner recommendation. Commissioner Zito indicated he’d support motion but recommended Council look closer to see if turnkey requirement could apply to both 1-acre and 5-acre parks.

Commissioner Kalra commended Rodrigo Orduna for his hard work in development of the North San Jose projects in past two weeks

Director commended City Attorney for frenzy of fast work on development agreement language.

5. **PETITIONS AND COMMUNICATIONS**

- a. Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:
 - 1) Responding to statements made or questions posed by members of the public; or
 - 2) Requesting staff to report back on a matter at a subsequent meeting; or
 - 3) Directing staff to place the item on a future agenda.

6. **REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS OR OTHER AGENCIES**

7. **GOOD AND WELFARE**

- a. Report from City Council
- b. Commissioners' report from Committees:
 - 1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).
Meeting in October.
 - 2) Coyote Valley Specific Plan (Platten).
No meeting.
 - 3) Parks Funding Subcommittee (Zito).
Meeting today with report from City Manager's Office to work cooperatively.
 - 4) Envision San José 2040 General Plan Update Process (Kamkar).
First public meeting, Saturday, October 13, 2007.
- c. Review of synopsis for 9/12/07.
Changes to 3.h.
APPROVED 7-0-0
- d. Consider study session dates and/or topics.
November 16, 2007 (Friday) tentative Annual Retreat date.
- e. Adopt 2008 Planning Commission Meeting Schedule.
Deferred to 10-10-07.
- f. Review Draft Planning Commission Annual Report FY2006-07
Deferred to 10-10-07.

8. **ADJOURNMENT**

2007 PLANNING COMMISSION MEETING SCHEDULE

Date	Time	Type of Meeting	Location
January 31	6:30 p.m.	Regular Meeting	Council Chambers
Mon. February 12	6:30 p.m.	Regular Meeting	Council Chambers
February 28	6:30 p.m.	Regular Meeting	Council Chambers
March 14	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Coyote Valley Specific Plan EIR</i>	
March 14	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
March 28	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Meeting Procedures and Commission Role</i>	
March 28	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
April 11	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Early Public Outreach for General Plan Update</i>	
April 11	6:30 p.m.	Regular Meeting	Council Chambers
April 25	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Level of Service Policy</i>	
April 25	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 2	5:00 p.m.	<i>Study Session</i>	T-1654
		<i>Review Capital Improvement Program</i>	
May 2	6:30 p.m.	General Plan & Regular Meeting	Council Chambers
May 16	6:00 p.m.	<i>Study Session</i>	T-332
		<i>Sunshine Reform Task Force Recommendations</i>	
May 16	6:30 p.m.	Regular Meeting	Council Chambers
May 30	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Economic Development/Retail Strategy</i>	
May 30	6:30 p.m.	Regular Meeting	Council Chambers
Mon., June 11	6:30 p.m.	Regular Meeting	W-118 / 119 / 120
June 27	5:00 p.m.	<i>Joint Study Session w/Parks Commission</i>	W-120
		<i>Riparian Corridor issues</i>	
June 27	6:30 p.m.	Regular Meeting	Council Chambers
July 18	6:30 p.m.	Regular Meeting	Council Chambers
August 8	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Street Vacations and Easements</i>	
August 8	6:30 p.m.	Regular Meeting	Council Chambers
August 22	6:30 p.m.	Regular Meeting	Council Chambers
September 12	5:00 p.m.	<i>Study Session</i>	T-332
		<i>Process for Referring Development Projects to the SNI NACS</i>	
September 12	6:30 p.m.	Regular Meeting	Council Chambers
September 26	6:30 p.m.	Regular Meeting	Council Chambers
October 10	6:30 p.m.	Regular Meeting	Council Chambers
October 24	6:30 p.m.	Regular Meeting	Council Chambers
November 7	6:30 p.m.	Regular Meeting	Council Chambers
November 14	6:30 p.m.	Regular Meeting	Council Chambers
November 28	6:30 p.m.	Regular Meeting	Council Chambers
December 5	6:30 p.m.	Regular Meeting	Council Chambers

CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, Redevelopment Agency Board, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

1. Public Meeting Decorum:

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

2. Signs, Objects or Symbolic Material:

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
 - No objects will be larger than 2 feet by 3 feet.
 - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
 - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSÉ CODE OF CONDUCT FOR PUBLIC MEETINGS IN
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D)**

3. Addressing the Council, Redevelopment Agency Board, Committee, Board or Commission:
- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
 - b) Meeting attendees are usually given two (2) minutes to speak on any agenda item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
 - c) Speakers should discuss topics related to City business on the agenda, unless they are speaking during open forum.
 - d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
 - e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
 - f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
 - g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.